

Serial No. 09/234,518
Amendment dated July 6, 2005
Reply to Office Action of February 7, 2005

Docket No. K-0078

REMARKS/ARGUMENTS

Claims 15-18, 20-21, 23-27, 50-52, 56-58, 60-61, and 63-64 are pending. By this Amendment, claims 15, 16, 18, 23, 50, 56, and 63 are amended and claims 14, 19, 53-55, 59, and 62 are canceled without prejudice or disclaimer.

Entry of the amended claims is proper under 37 C.F.R. §1.116 since the amendments: (1) place the application in condition for allowance (for the reasons discussed herein); (2) do not raise any new issues requiring further search and/or consideration (since the amendments amplify issues previously discussed throughout prosecution without incorporating additional subject matter); (3) satisfy a requirement of form asserted in the previous Office Action; and/or (4) place the application in better form for appeal (if necessary). Entry is thus requested.

Claims 14, 18, 19, 23, and 53-55 stand rejected under 35 U.S.C. §102(e) over Chater-Lea (U.S. Patent No. 5,822,314). The rejection of claims 19 and 53-55 are moot since those claims are canceled without prejudice or disclaimer. Further, dependent allowable claims 15 and 16 have been rewritten in independent form and dependency of claims 18 and 23 changed. Hence, this rejection is now moot.

Claims 50-52, 56-58 and 60-64 stand rejected under 35 U.S.C. §102(e) over Cheng et al. (U.S. Patent No. 6,393,008). The rejection of independent claim 50 is respectfully traversed. As set forth in the Reply filed September 21, 2004, Cheng et al. fails to disclose all the claim features and combination thereof, and the previous remarks related to independent claim 50 are

incorporated herein by reference. Moreover, claim 50 has been amended to incorporate the subject matter of dependent claim 62 which recites that the upper layer includes a radio resource control (RRC) which sends the measurement request and receives the result of the measurement.

The Patent Office concludes that the RRC is an entity of the upper layer and the upper layer sends the measurement request. Such an erroneous conclusion is without support. There is no disclosure in Cheng et al. regarding the upper layer including the RRC. Cheng et al. only discloses a network layer 102a or 102b and/or service option layer 104a or 104b. There is no support or disclosure in Cheng et al. to suggest that the network layer or the service option layer includes an RRC and that the RRC sends the measurement request and receives the result of the measurement. If the Patent Office maintains this conclusion, it is respectfully requested that the Patent Office provide a supporting document which teaches a network layer and/or the service option layer having a RRC. Hence, withdrawal of this §102 rejection is respectfully requested.

Further, the rejection of amended claim 56 and dependent claim 57-58 and 60 based on Cheng et al. is no longer applicable under §102. The subject matter of dependent claim 59 has been incorporated into independent claim 56, where dependent claim 59 was rejected under 35 U.S.C. §103 over Cheng et al. and Chater-Lea. To the extent that this rejection is applicable, the §103 rejection is further traversed.

Cheng et al. still fails to disclose the features recited in independent claim 56 for the reasons set forth in the Reply filed September 21, 2004. Further, under the §103 rejection, the

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Patent Office concludes that it would have been obvious to add a ciphering function such as suggested by Chater-Lea in the system in Cheng et al. It is respectfully submitted that there is no motivation for combining these two references to arrive at the claimed invention where the medium access control sub-layer includes both the function of ciphering and channel condition. It is respectfully submitted that the Patent Office has used Applicants' own invention to reconstruct the claimed invention, resulting in impressible hindsight. Withdrawal of this rejection is respectfully requested.

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, at the telephone number listed below.

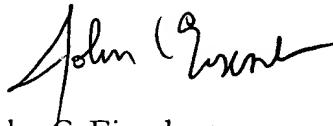
To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this,

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concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and
please credit any excess fees to such deposit account.

Respectfully submitted,
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